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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,568	02/17/2005	Olaf Joeressen	915-006,048	2435
4955 7590 05/01/2009 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468				
EXAMINER				
TRINH, SONNY				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
05/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/505,568

Applicant(s)

JOERESSEN, OLAF

Examiner

Sonny TRINH

Art Unit

2618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed on 02/17/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 12-14, 21, 22 and 26-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-14, 21-22, 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

CONTINUED EXAMINATION UNDER 37 CFR 1.114 AFTER FINAL REJECTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/19/09 has been entered.

Claim Objections

2. Claims 26 and 30 are objected to because of the following informalities: The word "adaption" in claims 26 and 30 should be changed to –"adaptation"–. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-9, 12-14, 21-22, 26, 28, 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Labun et al. (hereinafter "Labun"; U.S. Patent Number 6,842,621).

Regarding **claim 1**, Labun discloses a method, comprising:

obtaining at least one property related to at least one of a number of different types of data connections accessible from a mobile terminal device (such as cellular network connection and non-cellular network connection such as Bluetooth (abstract, column 1 line 56 to column 2 line 12, and from line 63 to column 3 line 14)). Labun does not explicitly disclose that at least one data connection can be used by at least one software application of said mobile terminal device, however, since the system can be switched from one data connection to another and since Labun also discloses that the determination may be made pre-programmed by a network operator or determined by user input at the mobile device (column 5 lines 34-61), it is obvious that program codes / software applications are stored in the mobile device. Furthermore, since Labun teaches the data transfer / connection from cellular network or non-cellular network based on the proximity of the mobile device with the access point which read on the adapting in said mobile terminal device said at least one software application by configuring it in one of pre-configured configurations in accordance with said obtained at least one property of one of said at least one of a number of different types of data connections accessible from said mobile terminal device, wherein said pre-configured configuration relates to a use of said at least one data connection by said software

application (see abstract, column 1 line 56 to column 2 line 12, and from line 63 of column 2 to column 3 line 14, column 4 line 28 to column 5 line 60).

Regarding **claim 2**, since Labun discloses that the system knows when to make a data connection via the non-cellular system (Bluetooth, see column 1 line 56 to column 2 line 12), it is obvious that the available property comprises the identification of said data connection.

Regarding **claim 3**, since Labun discloses that the data connection can be selected (cellular or non-cellular, please see abstract and Summary of the Invention), it would have been obvious that different properties are obtained when a specific data connection is selected (the mobile device knows if it uses local connection such as Bluetooth).

Regarding **claims 4-5**, Labun discloses that the system searches for available resource associated with the access point (column 6 line 42 to column 7 line 5) which is read on at least one accessible data connection is a potentially accessible data connection and determining actually accessible data connections and also the properties are obtained during said determination.

Regarding **claims 6 and 28**, Labun discloses the invention but does not explicitly disclose the active software applications, and adapting pre-configured configurations of said determined active software applications. However, since the system can identify the access point in order for the mobile device to transfer data via a non-cellular connection as discussed in claim 1 above, it is obvious that system is pre-configured to

run the software applications in order to transfer data without connecting to a cellular network.

Regarding **claims 7-8**, since Labun discloses that the system selects the data connection via the non-cellular network automatically when the user moves into the coverage area of an access point (abstract, figure 4, column 8 line 12 to column 9 line 14), it would have been obvious that the software application and the data transfer on a mobile terminal device is started prior to obtaining the properties

Regarding **claim 9**, Labun further discloses the selecting of an appropriate data connection (column 1 line 56 to column 2 line 12).

Regarding **claims 12-13 and 21**, these claims merely reflect the computer program, the means and apparatus for performing the method steps of claim 1 and are therefore rejected for the same reasons.

Regarding **claims 14 and 22**, since the system can select the non-cellular network for data transfer (see summary of the invention), it is obvious that the system comprises means for selecting one of said at least one accessible data connections.

Regarding **claims 26 and 30**, since Labun discloses that the system can transfer the data connection from the cellular network to the non cellular network (abstract, column 1 line 56 to column 2 line 37), it would have been obvious that if no data is being transmitted, the system would not check or executed the adaptation if said application requires to transfer data.

5. **Claims 27, 29, and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Labun in view of Ganton (hereinafter "Ganton"; U.S. Patent Number 6,973,335).

Regarding **claims 27, 29 and 31**, Labun discloses the invention but **does not** disclose the configuration of the device in accordance with an actual battery condition.

In an analogous art, Ganton teaches a system and method for evaluating and adjusting device energy consumption in a personal area network (PAN) (see abstract). With reference to figure 8, Ganton further teaches the determination of a battery level in order to configure the device for connection (column 7 line 33 to column 8 line 64).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to incorporate the checking of the battery level, as taught by Ganton in order to set the priority for the connection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sonny TRINH/
Primary Examiner, Art Unit 2618

5/1/09